

EXHIBIT 1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 ANTHONY MANGANIELLO,

4 PLAINTIFF,

5 -against-

Case No:
07 Civ. 3644 (HB)

6
7 THE CITY OF NEW YORK, DET. LUIS AGOSTINI, INDIVIDUALLY and as
8 a NEW YORK CITY POLICE DETECTIVE; SHAWN ABATE, INDIVIDUALLY
9 and as a NEW YORK CITY POLICE DETECTIVE; DEREK PARKER,
10 INDIVIDUALLY and as a NEW YORK CITY POLICE DETECTIVE; LT.
11 HENRY SCOTT, INDIVIDUALLY and as a NEW YORK CITY POLICE
12 LIEUTENANT; P.O. ALEX PEREZ, INDIVIDUALLY and as a NEW YORK
13 CITY POLICE OFFICER; P.O. MIRIAN NIEVES, INDIVIDUALLY and as
14 a NEW YORK CITY POLICE OFFICER; MICHAEL PHIPPS, INDIVIDUALLY
15 and as the COMMANDING OFFICER of the 43RD PRECINCT; JOHN
16 MCGOVERN, INDIVIDUALLY and as a NEW YORK CITY POLICE
17 DETECTIVE SERGEANT; ROBERT MARTINEZ, INDIVIDUALLY and as a
18 NEW YORK CITY POLICE DETECTIVE; GERYL MCCARTHY, INDIVIDUALLY
19 and as a NEW YORK CITY POLICE DEPUTY INSPECTOR,

20 DEFENDANTS.

21 DATE: December 21, 2007

22 TIME: 12:29 P.M.

23 EXAMINATION BEFORE TRIAL of the Plaintiff,
24 ANTHONY MANGANIELLO, taken by the Respective Parties,
25 pursuant to a Notice and to the Federal Rules of Civil
Procedure, held at the offices of MICHAEL A. CARDOZA,
Corporation Counsel, 100 Church Street, New York, New York
10007, before a Notary Public of the State of New York.

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A. MANGANIELLO

1 A. No.

2 Q. Did you ever make any complaints to him about
3 anyone else, go to him and have a complaint?

4 A. No.

5 Q. Do you know if he trained you?

6 A. No.

7 Q. Were you friendly with any of the other security
8 personnel at Parkchester?

9 A. Yes.

10 Q. What did you think of the other staff, the other
11 security officers?

12 A. We were like a family.

13 Q. Were you friendly with any other staff of
14 Parkchester, non-security personnel, other people who just
15 worked in the Parkchester security system?

16 A. I knew a people on a hello/goodbye basis. That was
17 it.

18 Q. Did you ever socialize with any of them outside of
19 work?

20 A. No.

21 Q. Did you know Walter Cobb?

22 A. Walter Cobb, I had heard of him.

23 Q. What did you hear?

24 A. I had heard that he was a drinker, and then he had
25 money problems.

A. MANGANIELLO

1 Q. When did you hear that?

2 A. I heard this over the course of working there.

3 Q. Do you remember when the first time you heard that?

4 A. Late '90s I believe.

5 Q. Did you ever speak with Walter Cobb personally?

6 A. One time a had -- one time I saw him taking
7 janitorial supplies from the building that I was patrolling;
8 garage bags, cleaners. I caught him with that, and I said,
9 "Where are you going with this?"

10 Q. What did he say?

11 A. You know, he was an older man, you know, he was
12 crying, he was begging, "Please, please, I'll put it back."
13 I said, "You know, you could lose your job over something
14 like this. It ain't worth it."

15 Q. Did you write him up?

16 A. I didn't write him up because he promised to put
17 the material back.

18 Q. Did he.

19 A. And he promised -- he put the material back and he
20 promised never to take it again.

21 Q. Did you ever see him take it again?

22 A. I never saw him take it again.

23 Q. Did you ever tell anyone about that experience, the
24 interaction?

25 A. No, I didn't. I used my discretion as a peace

A. MANGANIELLO

1 A. Yes.

2 Q. When there are two officers per quadrant, did you
3 patrol together?

4 A. No.

5 Q. How did you patrol together?

6 A. No.

7 Q. How did you patrol?

8 A. They divided the quadrant in half. They had map.
9 They said you have these buildings to check, and this other
10 officer had these buildings to check, and they would repeat
11 this numerously at roll call, "If we catch you guys working
12 together, you're going to get a suspension."

13 Q. Do you know why they did?

14 A. Because they say we could cover more ground if we
15 were separated. They wanted us to keep apart and check our
16 -- they wanted all the buildings checked, and that's what we
17 did.

18 Q. When you checked the buildings, what were you
19 required to do? What did that check entail?

20 A. The check entailed that basically we would pick
21 buildings at random to conduct vertical patrols which meant
22 to go to the top, to the roof landing, make sure there were
23 no vagrants, check to see if there was any illegal garbage
24 disposed of, if the garbage wasn't put in the refuse closet,
25 to issue a summons which the chief has quotas on, and to keep

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A. MANGANIELLO

1 condominium to look and run a certain way and imposed it upon
2 you and the other security officers to make sure that how
3 ever the board wanted their condominium to appear, it was up
4 to you to make sure it appeared that way?

5 A. Yes.

6 Q. If someone had an improper door handle?

7 A. Yes. Improper lock.

8 Q. Improper lock, too big of a wreath on the outside?

9 A. Yes. Air-conditioning, yes.

10 MS. FROMMER: Off the record.

11 (Whereupon, an off-the-record
12 discussion was held.)

13 Q. Did you carry a memo book?

14 A. Yes.

15 Q. As both a security officer and an SPO?

16 A. Yes.

17 Q. Did you ever receive any training on what you were
18 supposed to put down in that memo book?

19 A. Yes.

20 Q. What were you supposed to put down?

21 A. You start off the memo book with your name, date,
22 date that you opened the memo book, and then the day of the
23 week, the date, where you're assigned, the weather and where
24 you go, where you go, where you stop, what you observe. You
25 would make notations in it maybe every five to ten minutes to

A. MANGANIELLO

1 show exactly where you are during the course of the tour.

2 Q. So if your job is to patrol a particular building,
3 would you put down that you entered that particular building
4 and when you left that particular building?

5 A. Exactly. From the time that you enter, what you
6 did in that building, if you did a vertical patrol, if you
7 found a violation, if you issued a summons, you put the
8 summons number down in the book and the time that you left
9 the building.

10 Q. If you found nothing in the building, would you
11 just write "negative" or "nothing"?

12 A. Yeah, you exited the building negative results.

13 Q. If you go on meals, would you put that down?

14 A. Yes.

15 Q. Was there ever a time where you're doing your
16 patrol, but you're called to another assignment over the
17 radio?

18 A. Yes.

19 Q. How frequently would that happen?

20 A. If there was no manpower in the adjoining sector
21 and both units in one sector were busy, they would pull a man
22 out of the other sector to respond to another call.

23 Q. And would put that in your memo book?

24 A. Yes.

25 Q. Did you keep this memo book in February of 2001?

A. MANGANIELLO

1 minutes.

2 Q. Did you see Albert Acosta in the locker room?

3 A. Yes.

4 Q. Did you talk to him?

5 A. Yes.

6 Q. What did you say?

7 A. We were just talking. Everybody was trying to top
8 each others jokes.

9 Q. Do you recall what he said to you?

10 A. No, it was nothing specific.

11 Q. What happened after you got dressed?

12 A. We went outside, and we waited for our radios and
13 keys.

14 Q. Was it the sergeant on tour that day that would
15 just hand out the radios and keys?

16 A. Yes.

17 Q. Do you remember who it was that day?

18 A. Sergeant Ohle.

19 Q. Were you given your radio and keys?

20 A. Yes.

21 Q. What radio were you given?

22 A. I don't remember.

23 Q. I'm not asking if it was a number?

24 A. Parkchester radio.

25 Q. Were you given an NYPD radio?

A. MANGANIELLO

1 A. No.

2 Q. Were you assigned to monitor an NYPD radio that
3 day?

4 A. No.

5 Q. And the keys that you were given, were they keys to
6 open all of the buildings and doors in Parkchester except for
7 the ones you talked about earlier?

8 A. Yes.

9 Q. You have a roll call?

10 A. Yes.

11 Q. Did that occur in the same area where you got your
12 radios and key?

13 A. Just a few steps further up.

14 Q. What happened at roll call?

15 A. There are two lines. We all assembled in the line,
16 and the sergeant reads off -- he gives our designation like
17 Adam Boy, East Adam Boy, East Charlie David, South Adam Boy,
18 and that -- we get assigned to that, and were assigned a
19 building that we have to do a vertical patrol in.

20 Q. So you get your quadrant or sub quadrant that
21 you're supposed to patrol, and then you're told specifically
22 to do a vertical in a particular building?

23 A. In a particular building.

24 Q. Do you know why you're told to do a vertical in a
25 particular building?

A. MANGANIELLO

1 A. I don't remember.

2 Q. Was 1700 Metropolitan Avenue in the Charlie David
3 sub sector?

4 A. Yes.

5 Q. Who else, if anyone, was assigned to the east
6 quadrant, Charlie David?

7 A. It was just me.

8 Q. No one else was assigned that day?

9 A. To East Charlie David?

10 Q. Yes.

11 A. No.

12 Q. And you said I think earlier that sometimes that
13 could happen, correct, that sometimes two people would be
14 assigned?

15 A. You mean East Adam Boy.

16 Q. So somebody would be assigned to East Adam Boy and
17 somebody would be assigned to --

18 A. Yes.

19 Q. Who was assigned to East Adam Boy?

20 A. Albert Acosta.

21 Q. Prior to February 12, 2001, how many times had you
22 been assigned to the same quadrant with Albert Acosta?

23 A. I don't know.

24 Q. More than a hundred?

25 A. I don't remember.

A. MANGANIELLO

1 person who's assigned the Met Oval agrees, then they could
2 switch.

3 Q. Did you ever request that sitting post?

4 A. No.

5 Q. What's the first thing you did after roll call?

6 A. I proceeded to my quadrant.

7 Q. Now you had patrolled Charlie David before
8 February 12th, correct?

9 A. Yes.

10 Q. When you patrolled Charlie David, did you have a
11 particular order that you would perform your patrol?
12 Meaning, would you routinely go to do certain buildings
13 first, or did off route that you would take for those
14 buildings?

15 A. Mostly you do them at random. You pick the
16 buildings at random.

17 Q. Why do you pick them at random?

18 A. You spread them apart, and you pick them at random.
19 Sometimes they may ask you to check this building first
20 because it has a tendency to have maybe vagrants or people
21 that tend to trespass into the vacant terrace apartments.
22 There were a lot of people that tend to break into the
23 terrace apartments and trespass and sleep overnight.

24 Q. How far was the East Charlie David squad from 63
25 Metropolitan Oval?

A. MANGANIELLO

1 Q. Do you remember where you were when you heard it?

2 A. I was someone in the east quadrant. I don't know
3 exactly where.

4 Q. Do you know if you had patrolled 1700 Metropolitan
5 Avenue by the time you heard the transmission from Sergeant
6 Ohle?

7 A. No, I hadn't.

8 Q. Do you remember what you were doing when you heard
9 the transmission?

10 A. Like I said, I was checking buildings, I was going
11 in and out, marking everything because a sergeant at any time
12 call pull up and your memo book has to be up to date. If
13 it's not up to date, then you could be suspended.

14 Q. Do you remember if you were doing patrol, if you
15 were issuing a summons, were you in front of an apartment
16 when you hear Sergeant's transmission?

17 A. No, I wasn't issuing a summons at that time.

18 Q. What was the transmission from Sergeant Ohle?

19 A. Sergeant Ohle called out, he said, "Via PD radio,
20 there's a dispute with knives at 1700 Metropolitan Avenue,
21 Apartment 5 Eddie."

22 Q. That was your quadrant?

23 A. Yes.

24 Q. In that transmission, did Sergeant Ohle say your
25 name "SPO Manganiello respond," or did he just put over the

A. MANGANIELLO

1 information that he said?

2 A. No, because at roll call, he gives out the
3 designations, and at roll call we all know -- sometimes most
4 officers write everybody's designations so they know who they
5 are. So we all know by designation who we are. You're not
6 supposed to give a name over the air.

7 Q. Why not?

8 A. Unless it's an emergency because something about
9 FCC regulations. That's what I was told.

10 Q. So generally you don't give officer names over the
11 air?

12 A. No, not unless somebody panics and it's an
13 emergency.

14 Q. And they forget the rules?

15 A. Yes.

16 Q. Do you remember what time you heard that
17 transmission from Sergeant Ohle?

18 A. I think it came over at 8:40 in the morning.

19 Q. Do you remember how far from 1700 Metropolitan
20 Avenue you were when you heard that transmission?

21 A. I got to it fairly quick. I think I responded at
22 8:45 a.m.

23 Q. Did you respond by walking?

24 A. Yes.

25 Q. When it came over "dispute with knives, 1700

A. MANGANIELLO

1 Metropolitan Avenue, Apartment 5 Eddie," did it say "Officer
2 respond" or just the area, and you knew to respond there?

3 A. Sergeant Ohle had requested me. He worded it
4 exactly, "Via PD radio, there's a dispute with knives,
5 Apartment 5 Eddie at 1700 Metropolitan Avenue," I believe he
6 said, "East Charlie David, respond."

7 Q. Okay, that's what I was asking.

8 A. "East Charlie David, respond."

9 Q. So you were assigned to that job?

10 A. Yes.

11 Q. Was anyone else assigned to respond?

12 A. No.

13 Q. Was anyone assigned to assist you?

14 A. Not that I heard. Like I said, not just that day,
15 for months we were having problems with communications.

16 Q. If you don't, if somebody was assigned?

17 A. Exactly. If something went over the air, I didn't
18 hear it.

19 Q. Do you know if the transmission you heard, that you
20 responded to, if that was the first time Sergeant Ohle had
21 put it over the air, or if he put it over before but had a
22 problem with the transmission?

23 A. That I don't know. When I caught it, I responded
24 to it.

25 Q. Do you know where Albert Acosta was when you were

A. MANGANIELLO

1 assigned to that job?

2 A. No.

3 Q. Did you see him?

4 A. No.

5 Q. Did you make any transmissions in response to
6 hearing Sergeant Ohle?

7 A. I said, "10-4." I acknowledged the call that I was
8 in en route.

9 Q. Did do you remember hearing any other transmission
10 at that time?

11 A. No, no.

12 Q. You went to Apartment 5 E?

13 A. 5 E, yes.

14 Q. That building, do you have to walk up the steps to
15 get to fifth floor, or are there elevators?

16 A. There's elevators.

17 Q. What happened when you got to the apartment?

18 A. I saw a sector car in front, so I knew somebody was
19 up there already. I went in through the front door, I took
20 the elevator up, got out, heard some yelling at 5 Eddie and
21 knocked on the door, and I found Sergeant Rose from the New
22 York City Police Department.

23 Q. Did you know Sergeant Rose prior?

24 A. No.

25 Q. How do you know his name?

A. MANGANIELLO

1 the apartment, that was one was there before the other, and
2 no one wanted to leave. Basically after a while, two other
3 officers from New York City Police arrived?

4 Q. How long after you got there?

5 A. Maybe five minutes, five or ten minutes later.

6 Q. Do you know who those other officers were?

7 A. Yes.

8 Q. Did you know them at that time?

9 A. Yes.

10 Q. Who are they?

11 A. A Police Officer Ortiz and Rodriguez.

12 Q. How did you know their name?

13 A. They had the nameplate across -- underneath their
14 shield.

15 Q. And sitting here today, six years later, you
16 remember their names?

17 A. Very well.

18 Q. Why?

19 A. Because of what happened that day.

20 Q. You had never seen them beforehand?

21 A. Correct. Well, I may have. I don't know.

22 Q. Did you ever interact with them beforehand?

23 A. Not on a friendly basis or anything like that, but
24 I don't know if in the past if we responded to a call
25 together or not. I don't know.

A. MANGANIELLO

1 Q. Were they ever helping you with an arrest?

2 A. No.

3 Q. What happened when those two officers arrived?

4 A. When those two officers arrived, Sergeant Rose
5 broke down the details and explained to the officers what was
6 going on, and he recommended they settle it in housing court,
7 and that's it. He prepared the paperwork and recommended
8 that they go to housing court to settle the dispute, and
9 Sergeant Rose left the apartment at that time.

10 Q. What did you do then?

11 A. I stayed with the Police Officer Ortiz and
12 Rodriguez. We stood there, took some more information,
13 calmed the tenants down, and when it got to the point where
14 they were calm and cool, we all left together.

15 Q. Did any other SPO or security officer ever arrive
16 on the scene?

17 A. No.

18 Q. Did Albert Acosta ever arrive on the scene?

19 MR. JOSEPH: To his knowledge?

20 Q. To your knowledge, while you were there?

21 A. While I was there, no, I didn't see it or either of
22 the police officers, they didn't see them.

23 Q. How long were you at Apartment 5E in total?

24 A. Approximately 15 to 20 minutes.

25 Q. So is it fair to say you left roughly around

A. MANGANIELLO

1 9 o'clock to 9:10?

2 A. Yeah, that would be fair.

3 Q. Did you write in your memo book what time you left
4 the apartment?

5 A. Exactly.

6 Q. When you left the apartment, did you take the
7 stairs or the elevator?

8 A. We took the elevator.

9 Q. Did any other NYPD officers arrive while you were
10 there?

11 A. No, no, it was just the two. When we finished, we
12 get into the elevator, and we left the building together.

13 Q. Were any arrests made?

14 A. No.

15 Q. Were any summonses issued?

16 A. No, I don't believe so.

17 Q. Did you issue any summonses?

18 A. No.

19 Q. Where did you go when you left the apartment and
20 took the elevator downstairs?

21 A. After that, I called in a final disposition of the
22 case, and then I proceeded to -- with my patrol.

23 Q. Where did you go?

24 A. Walked up Metropolitan Avenue.

25 Q. To which building?

A. MANGANIELLO

1 A. Yes, I did.

2 Q. What job did you pick up?

3 A. I picked up a job at 14 Metropolitan Oval.

4 Q. What time was that?

5 A. Let me think. It may have been 9:45.

6 Q. What was the job?

7 A. It may have been 9:45. I was conducting a
8 vertical, and I came across a garbage bag that was not in the
9 refuse closet.

10 Q. What did you do?

11 A. It was open, and I saw an envelope on it with a
12 tenant's name and address.

13 Q. Do you remember who the tenant was?

14 A. It was -- I think her name was Rosario. I'm not a
15 hundred percent sure. It was apartment -- I don't know if it
16 was 5F or 6F.

17 Q. Was that the building you were supposed to do a
18 vertical in?

19 MR. JOSEPH: Objection to "supposed to do a
20 vertical" somewhere.

21 A. I don't know where because I'd written down in the
22 memo book.

23 Q. Would you do a vertical on a building that is not
24 the one you're assigned to -- in addition to the one you're
25 assigned to do?

A. MANGANIELLO

1 A. Yeah, you're supposed to them anyway during the
2 tour.

3 Q. So in addition to the one vertical you're told to
4 do, you were supposed to do verticals on other buildings as
5 well?

6 A. Yeah. They'll pick a problem building where they
7 know in the past there's somebody there. In addition to
8 that, you do verticals on your own.

9 Q. What happened when you found out the name and
10 address in the garbage bag?

11 A. I took that, and I went down to finish the
12 vertical, and I went down to the lobby where I proceeded
13 write a report and write out the summons. And I put the
14 report, the summons and the letter, and I folded it up, and I
15 put it in my memo pad.

16 Q. Did you issue the summons?

17 A. I didn't give it for a couple of reasons. In the
18 past when officers give summonses, they slide them under the
19 door or put them in the mailbox, tenants come after them.
20 There's a confrontation. So we were told when you issue a
21 summons, attach it to the report with any evidence, you need
22 the evidence or anything with a name on it. Then when
23 Parkchester gets it, they mail it out to the tenant.

24 Q. Before you put it in the memo book, did you check
25 to see if the tenant was home?

A. MANGANIELLO

1 Q. Where is 14 Metropolitan Oval in relation to 1700
2 Metropolitan Avenue?

3 A. It's like -- it would be like two city blocks away.

4 Q. While you were writing this report and summons, did
5 you hear any radio transmissions?

6 A. No.

7 Q. Do you know if there were any that you just didn't
8 pay attention to?

9 A. I didn't hear any transmissions.

10 Q. Do you know if any were made?

11 A. I don't know.

12 Q. What did you do after the 20, 25 minutes after
13 writing the report and summons?

14 A. Can I back up. I learned later during trial --

15 Q. I'm not asking what you learned during trial. I'm
16 asking sitting here today, do you remember hearing any other
17 transmissions?

18 A. No.

19 Q. What did you do after the 20, 25 minutes of writing
20 your report and summons?

21 A. I exited the building, and I had planned on going
22 for a coffee break. I called out for a 10-8 which is a
23 break.

24 Q. Was that also known as a personal?

25 A. A personal, a break.

A. MANGANIELLO

1 Q. How many coffee breaks are you allowed to take on a
2 shift?

3 A. I don't think more than two.

4 Q. How long are they?

5 A. About ten minutes.

6 Q. What time did you call over the 10-8?

7 A. 10-8, it would have to be shortly after I exited
8 the 14 Metropolitan Oval.

9 Q. Do you remember in which direction you were
10 walking?

11 A. 14 Metropolitan Oval is right at the edge of the
12 street of Metropolitan Avenue and the Oval. So I was walking
13 towards Met Oval diner, but I was far away from it, though.

14 Q. Were you going to take your coffee break at Met
15 Oval Diner?

16 A. Yeah.

17 Q. Other than put over the 10-8, did you make any
18 other transmissions at that point?

19 A. I transmitted that after I exited the building that
20 the vertical was conducted and that the summons was issued,
21 and I gave a summons number.

22 Q. That was put over the radio?

23 A. That was put over the radio. I don't know if the
24 dispatch ever got a chance to log it in the book.

25 Q. Do you know if what's put over the radio is

A. MANGANIELLO

1 A. I believe I did.

2 Q. What happened then?

3 A. I heard Sergeant Ohle said, "10-4," and as soon as
4 I was crossing the street within minutes, he called out
5 "10-13, 10-13, officer down, East Adam Boy in the basement,
6 East Adam Boy shot," and he said, "Central, bring the chief
7 out there immediately."

8 Q. What time was that?

9 A. It was minutes after I called for the 10-8. It
10 must have been maybe -- I don't know if it was 10:00, 10:20
11 or 10:30. I don't know.

12 Q. It was after you put over that you were going on a
13 break?

14 A. Right.

15 Q. Do you know where Sergeant Ohle was when he put
16 that over?

17 A. He was at that location.

18 Q. How do you know?

19 A. He said that.

20 Q. What did he say?

21 A. He said, "Park 4, Park 4, Central." That's his
22 designation, Park 4. He said, "East Adam Boy, East Adam Boy
23 down in the basement, shot. Get an ambulance and get the
24 chief over here immediately." Then --

25 Q. Is that the first transmission you heard regarding

A. MANGANIELLO

1 the shooting?

2 A. I believe it was.

3 Then I heard Lieutenant Costa come over the air,
4 and he called out to Sergeant Ohle. "Sergeant Ohle, who's
5 down East Adam Boy or East Charlie David?" He repeated this
6 like three times because he couldn't -- the transmission
7 wasn't going through. And Sergeant Ohle replied back, "Over
8 here, East Adam Boy is down, East Adam Boy is down. Get an
9 ambulance here quick."

10 Q. You heard all of those details by Sergeant Ohle?

11 A. I heard those details, and I believe he also
12 mentioned his last name over the air.

13 Q. I thought officers were not supposed to mention the
14 last names?

15 A. That's a very serious situation.

16 Q. Have you heard the tape of that recording?

17 A. I did hear a tape.

18 Q. Was that tape played at your trial?

19 A. Yes, yes.

20 MS. FROMMER: To the extent that the tape is
21 in your possession, I'm going to call for
22 production of it.

23 MR. JOSEPH: We'll take that under advisement.
24 We will produce that tape. We have a technology
25 issue with it, and we'll get it to you.

A. MANGANIELLO

1 Q. What did you do when you heard that?

2 A. I immediately ran down Metropolitan Avenue towards
3 the building.

4 Q. Did you make any radio transmissions?

5 A. I said, "East Charlie David en route," but I don't
6 think anybody heard me because there was chaos over there.

7 Q. What else did you say over the air?

8 A. Nothing much because I was running.

9 Q. Was anyone with you when where you heard the
10 transmission from Sergeant Ohle?

11 A. No, because I was still by myself. Like I said, I
12 just called a 10-8 to take a break. That same information
13 may have been relayed also by Central.

14 Q. Did you hear it relayed by Central?

15 A. I believe I did. I mean, the officer at Met Oval.
16 Central definitely relayed that, but also the officer at Met
17 Oval for other units who couldn't hear.

18 Q. Did you ever go over the air and respond
19 "negative"?

20 A. No. Negative in what way?

21 Q. I'm asking if you went over the air and used the
22 word "negative"?

23 MR. JOSEPH: Objection. You can answer.

24 A. In what content, though?

25 Q. When you heard Sergeant Ohle, any transmission by

A. MANGANIELLO

1 Sergeant Ohle that day?

2 A. No, no.

3 Q. Did you see Walter Cobb that day?

4 A. No, I didn't.

5 Q. Are you aware that you saw Mr. Cobb give a
6 statement to the police that he saw you that morning?

7 A. Yes.

8 Q. Are you aware that Mr. Cobb told the police that he
9 saw you immediately after hearing gunshots coming from 1700
10 Metropolitan Oval?

11 A. Yes.

12 Q. You aware that Mr. Cobb told the police that you
13 told him you heard the shots as well?

14 A. That I heard the shots?

15 Q. Yes.

16 MR. JOSEPH: Are you aware that Cobb said
17 that?

18 A. Yes.

19 Q. Are you aware that Mr. Cobb told the police that
20 you told Mr. Cobb to go one way and you would go the other
21 way?

22 A. Yes.

23 Q. How long did it take you to get to 1700 when you
24 heard those transmissions?

25 A. I think I was there maybe less than five minutes.

A. MANGANIELLO

1 Q. How did you get there?

2 A. I ran down there.

3 Q. I'm sorry, what was the first thing you heard when
4 you heard Sergeant Ohle say "10-13"? I'm sorry, I missed
5 that. What was the first thing you heard when you heard
6 Sergeant Ohle say, "10-13, officer down"? Can you tell me
7 again what -- the details of what your heard?

8 A. He said, "10-13, officer down, East Charlie -- East
9 Adam Boy down, East Adam Boy shot."

10 Q. What else?

11 A. And then Lieutenant Costa came over the air. He
12 said, "Park 4 -- he was yelling out there "Park 4."

13 Q. That was his code, "Park 4"?

14 A. Yes. He was saying, "Is it East Adam Boy or East
15 Charlie David?" He said that three times because he couldn't
16 -- I heard Lieutenant Costa say that three times, and
17 Sergeant Ohle replied back, he said, "East Adam Boy Acosta.
18 He said, area, somebody go get the chief and bring him down
19 here immediately."

20 Q. Those were the words that you heard?

21 A. That's what I heard.

22 Q. What did you see when got to the scene?

23 A. When I ran to the scene, I saw numerous sector cars
24 in the area. I saw Sergeant Ohle inside the corridor with
25 other Parkchester security officers.

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A. MANGANIELLO

1 Q. Which corridor?

2 A. In the corridor of the basement of 1700
3 Metropolitan Avenue.

4 Q. What other security guards did you see?

5 A. I saw Ray Nieves (phonetic), who else was there, I
6 think Anthony Monserrate.

7 Q. Can you spell his last name?

8 A. M-O-N-S-E-R-R-A-T-E. I'm not positive about that.

9 Q. These were inside the corridor?

10 A. Yes.

11 Q. Who else did you see?

12 A. I saw numerous.

13 Q. Parkchester people that you recognized.

14 A. Parkchester people as well, who else?

15 Q. Were there any police officers, NYPD police inside
16 the corridor?

17 A. Yes.

18 Q. Did you recognize any by name?

19 A. I recognized Mirian Nieves.

20 Q. Where was she?

21 A. She was on the railing right outside the doorway.

22 Q. Did you say anything to her?

23 A. No.

24 Q. Did you approach her?

25 A. No, I just went directly into the building.

A. MANGANIELLO

1 Q. Were you permitted access into the building?

2 A. Yes.

3 Q. What happened when you got into the building?

4 A. I went directly into the building, and then there
5 were officers -- I think security was inside the room. And
6 we went in there, and I walked up, when I bent down, I saw
7 who it was.

8 Q. You saw who it was?

9 A. Yeah, I saw Albert Acosta lying on the floor.

10 Q. How did you know it was him?

11 A. I could see his face.

12 Q. How far from him did you get?

13 A. I was almost right on top and just the police were
14 telling me to watch out and not to step on the shells.

15 Q. So the police officers let you walk up and approach
16 the body?

17 A. Yes.

18 Q. How many police officers were there?

19 A. There was a police officer named, and I'm
20 pronouncing this wrong, Commowatts (phonetic). It's a very
21 long name. I'm not pronouncing it -- I haven't a clue how to
22 spell it.

23 Q. How close did you come to the body?

24 A. I was right over him, and I was, you know, I was
25 pleading with him. I was saying, "Al, hang in there, hand in

A. MANGANIELLO

1 approached you?

2 A. They told me, "We'd like to take you to the 43rd
3 Precinct so maybe you can help us out with this
4 investigation."

5 Q. What did you say?

6 A. I said, "Okay." But prior to getting into the car,
7 I was patted down which was strange.

8 Q. Did you ask why you were patted down?

9 A. They asked them. They refused to tell me or talk
10 to me.

11 Q. Were you handcuffed?

12 A. Not at that time.

13 Q. But you agreed to go with the police, right?

14 A. I agreed to go with them.

15 Q. You were not under arrest?

16 A. What?

17 MR. JOSEPH: Objection. You can answer.

18 A. They didn't tell me at that time, but --

19 Q. I'm asking at the time they asked you to come back
20 to the precinct --

21 A. Right.

22 Q. You said, "Okay"?

23 A. Yes.

24 Q. And you were not under arrest?

25 A. As far as I know, I wasn't under arrest, no.

A. MANGANIELLO

1 A. No.

2 Q. Did you talk to any other police officer at the
3 scene?

4 A. No.

5 Q. Did you make any calls from your cell phone at the
6 scene?

7 A. No.

8 Q. Did you tell anyone to make a call for you?

9 A. No.

10 Q. Did you make any telephone calls when you were
11 brought en route to the 43rd Precinct?

12 A. No.

13 Q. What happened when you got to the 43rd Precinct?

14 A. When I got to the 43rd Precinct, they took me up
15 into the detective squad.

16 Q. Had you ever been up there before?

17 A. I may have been there once on a case with
18 Parkchester along time ago.

19 Q. Assisting with an investigation?

20 A. Yeah.

21 Q. When the officers asked just to bring you back to
22 the 43rd, did you ever ask if you can drive your own car?

23 A. No. What I did ask was if I could go because I
24 wasn't feeling well. I asked if they could take me to the
25 hospital.

A. MANGANIELLO

1 Q. When did you ask that?

2 A. When I was in the back seat. I said, "Before we go
3 to the 43rd, can I just get checked up?"

4 Q. Why did you wanted go to the hospital?

5 A. Because I was having palpitations. I ran very
6 fast. I was out of breath, and I was in shock.

7 Q. Did anyone respond to you?

8 A. No.

9 Q. Did you say anything else?

10 A. No.

11 Q. What happened when you got to the detective squad?

12 A. They put me -- they sat me down in the interview
13 room.

14 Q. Who sat you down?

15 A. The detectives walked me in. I was met by
16 Detective Agostini.

17 Q. Prior to that day, had you ever met Detective
18 Agostini?

19 A. No.

20 Q. Did you know who he was?

21 A. No.

22 Q. When was the first time you came to know what his
23 name was?

24 A. He told me what his name was.

25 Q. He introduced himself?

A. MANGANIELLO

1 A. Yes.

2 Q. What did you do when he introduced himself?

3 A. I said, "Hello, Detective."

4 Q. What happened then?

5 A. He sat me down, he asked me some general questions.

6 Q. What did he ask?

7 A. He asked me what my name was.

8 Q. What did you tell him?

9 A. I told him my name.

10 Q. What else did he ask you?

11 A. He asked me how long I worked for Parkchester.

12 Q. What did you say to him?

13 A. I told him how long I worked. He asked me for my
14 address.

15 Q. What did you tell him?

16 A. I gave him my address.

17 Q. What address did you give him?

18 A. I gave him 347 Bronxville Road, Yonkers, New York
19 10708, Apartment 2.

20 Q. What else did he ask?

21 A. He asked me for my phone number.

22 Q. Did you give it to him?

23 A. Yes.

24 Q. What number did you tell him?

25 A. I gave him 7-7-9 -- it wasn't that number at the

A. MANGANIELLO

1 time.

2 Q. I'm asking you what number did you tell Detective
3 Agostini?

4 A. It was an old number. The number that I had
5 previously, this was the number that I gave him.

6 Q. When you gave him a telephone number, tell me the
7 digits that you gave him.

8 A. I don't remember what my last number was, but it
9 was the number prior to what I had.

10 Q. Why did you change your number?

11 A. Excuse me?

12 Q. Why is that no longer the telephone number?

13 A. Because I kept getting strange calls at night.
14 That's why I changed it.

15 Q. When did you change it?

16 A. I don't remember when I changed it.

17 Q. What else did he ask you?

18 A. After asking me these general questions, he said to
19 me, "If you know anyone who may have wanted to hurt or kill
20 Acosta."

21 Q. What did you say?

22 A. I mentioned to him -- by the way, I mentioned to
23 him that I was also on the job part-time with the state park
24 police.

25 Q. Why did you mention that to him?

A. MANGANIELLO

1 A. I wanted him to know that I was a part-time
2 officer.

3 Q. Why did you think that was important?

4 A. I was always told that you always reveal who you
5 are when you're speaking to another officer.

6 Q. Did you give him any ID?

7 A. I didn't have that ID on me.

8 Q. Where did keep that ID?

9 A. I had that at home.

10 Q. Were you supposed to work for the New York State
11 Park Police as well that day after your shift?

12 A. I don't know. After my shift, I usually go home,
13 and then from there, I go to the New York State Park Police.

14 Q. How much time do you usually spend at home?

15 A. Not much. I grab a quick snack and go.

16 Q. What else did you tell Detective Agostini?

17 A. I told him ability a situation that I remember Al
18 telling me about. He was on Metropolitan Avenue, this group
19 of guys were blasting their radio in front of 1514
20 Metropolitan Avenue. It was an old rental office building
21 for Parkchester. He told me a group of guys just picked him
22 up and tossed him through the plate glass window.

23 Q. When did that happen?

24 A. That may have happened -- it's definitely on file
25 because he had to go to the hospital.

A. MANGANIELLO

1 that occurred where two suspects, one by the name of Smith
2 and one by the name of Parrish had threatened to shoot both
3 him and Eric Hicks?

4 Q. When did that happen?

5 A. I think this happened in '99, early '99.

6 Q. And you remember the name Smith and Parrish?

7 A. Well, they're common thugs in the neighborhood.

8 Q. When was the last time prior to February 12, 2001
9 you saw either Mr. Smith or Mr. Parrish in the neighborhood?

10 A. They tend to hang out well after 12:00 at night.
11 My tour, 8:00 to 4:00, thank God I don't have to run into
12 them.

13 Q. When was the last time prior to February 12, 2001
14 you had seen them?

15 A. February 12, 2001, I hadn't seen them.

16 MR. JOSEPH: When was the last time before
17 that day you saw them?

18 A. I don't know.

19 Q. More than a month?

20 A. I don't have no idea.

21 Q. Have you ever had a conversation with Mr. Smith and
22 Mr. Parrish?

23 A. I was sent sometime to their apartment to
24 issue summonses because they were blasting stereos in their
25 apartment.

A. MANGANIELLO

1 How did they respond to you?

2 A. They weren't happy. They cursed at me.

3 Q. Did they threaten you?

4 A. They cursed at me, and threatened me, and I put
5 that in my report.

6 Q. Do you know if they still live at Parkchester?

7 A. I don't know.

8 Q. What else did you tell Detective Agostini?

9 A. After I told him that, then he asked me point
10 blank, "Did you kill Albert Acosta?" Just point-blank out of
11 the blue. And I told him, "Are you fucking crazy?"

12 Q. You said that to him?

13 A. I said that to him. I said, "Are you fucking
14 crazy. I had nothing to do with it. I came in here to help
15 you guys out. You're turning this -- you're pointing this
16 investigation towards me?" With that, got up, stared me in
17 the face like a perp, went over to Abate, went out the room,
18 within minutes, came back with Abate and McGovern, came in
19 and starting stripping me of my clothes.

20 Q. When was the first time you learned the name
21 McGovern?

22 A. I learned it later on who McGovern was through my
23 lawyer.

24 Q. Did you know the man who came in was named
25 McGovern?

A. MANGANIELLO

1 A. No.

2 Q. Did you know who he was?

3 A. I knew he was a detective.

4 Q. But you didn't know his name until through your
5 lawyer?

6 A. Until my lawyer said so.

7 Q. How long were you speaking with Detective Agostini
8 and Detective Abate initially?

9 A. I was speaking with them maybe 15 minutes because
10 also EMS had arrived, and they put the sensors on me. They
11 said I had some palpitations.

12 Q. What else did EMS do?

13 A. I also asked if I could go to the hospital. They
14 wouldn't let me go. That was it. They left and after they
15 left, Agostini, Detective Abate and McGovern came in, and
16 they just started stripping me of my jacket. I had a
17 sweater, an SP on. They took that off, took my watch, my
18 wallet, my belt, keys, my memo book, phone, went through my
19 pockets, took everything. I had nothing on me. They left me
20 in a tank top, my pants, and I had my shoes and my socks on.

21 Q. What happened then?

22 A. What happened then, I was in an interview room
23 right, and I was -- I couldn't believe what the hell was
24 happening to me. I said, "Here I am witnessed -- I witnessed
25 someone that we was just joking with that morning," and they

A. MANGANIELLO

1 Q. What happened then?

2 A. They took everything. I was left in a tank top and
3 pants, and they said you stay here and not to go anywhere.
4 They had someone at door watching me.

5 Q. Did ever ask to go home?

6 A. Yes.

7 Q. Who did you ask?

8 A. I asked Detective Agostini. He just smirked and
9 laughed at me.

10 Q. What then?

11 A. What happened then, shortly afterwards, sometime
12 later I saw my brother and my father enter the squad room.

13 Q. How did your brother come to be at the precinct?

14 A. We never found out who called me.

15 Q. Did you call him?

16 A. No, I didn't call him.

17 Q. Did you ask anyone to call him for you?

18 A. I didn't ask anyone to call him. I don't know if
19 someone at -- I don't know if they contacted Mount Vernon or
20 someone from Mount Vernon police called him, I don't know if
21 somebody at my job called him. I have no idea to this date
22 who called him.

23 Q. Do people at your job know about your brother?

24 A. Yes.

25 Q. Was he on the contact list?

A. MANGANIELLO

1 A. Next time I saw him was when he came to the aid of
2 my brother and father.

3 Q. Did you ever have any further conversation with him
4 that day about your presence in the precinct?

5 A. He said that they were going to charge me.

6 Q. The entire time you're at the precinct, at this
7 point, are you sitting in the interview room?

8 A. No, I was moved.

9 Q. While you were sitting in the interview room, were
10 you ever handcuffed?

11 A. No.

12 Q. At what point in time were you moved?

13 A. I was moved shortly after Mr. Ross spoke to me, and
14 he left. And right after he left and my brother and father
15 left, they moved me to the jail.

16 Q. To a cell?

17 A. To a cell.

18 Q. In the same building?

19 A. Same building, same floor.

20 Q. Were you ever handcuffed?

21 A. Only when I went to the bathroom. I used the
22 bathroom the night before.

23 Q. What happened when you were in the cell?

24 A. When I was in the cell, they put me in, I asked for
25 something because it was very cold in there. They just

A. MANGANIELLO

1 laughed and chuckled at me and ignored me.

2 Q. What happened then?

3 A. I was in a cell, an hour later I saw -- when I was
4 in the cell, I saw Detective Agostini at the desk speaking to
5 Sergeant McGovern.

6 Q. You could see this from inside the cell?

7 A. Yeah, they're open. They're just bars. You can
8 see this -- it was like his desk was there (indicating) and
9 the cell, I'm sitting right here (indicating).

10 MS. FROMMER: Let the record reflect that the
11 witness is pointing across the table at me.

12 A. He's talking to Sergeant McGovern. He's telling
13 him, "Listen, I want you to buy me some time."

14 Q. Who said that?

15 A. Detective Agostini.

16 Q. You heard this?

17 A. Yes. He says, "I want you to buy me some time. I
18 want you to get Mario and bring his father back into the
19 stationhouse. Detective Abate came by, saw me looking on,
20 pick him up, moved him further back. Lieutenant Scott was
21 further back. I don't know who said this, but I heard
22 someone say, "Take some uniform cars with you when you pick
23 him up."

24 Q. Did you ever tell the police where your car was
25 parked that day?

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A. MANGANIELLO

1 that correct?

2 A. I was free to leave the cell.

3 Q. Did you go home?

4 A. Yes, I did.

5 Q. You could have gone to Connecticut if you wanted?

6 A. I don't know.

7 Q. Did they tell you that you could leave New York?

8 A. They didn't mention any of that.

9 Q. So you was just told to leave?

10 A. I was just told to leave.

11 Q. What happened when you left?

12 A. Well, you're jumping ahead.

13 Q. Sir, this is my deposition, and I can ask whatever
14 questions I want to ask.

15 MR. JOSEPH: Watch your tone, Counsel.

16 MS. FROMMER: Well, he's telling me how to
17 conduct my deposition.

18 MR. JOSEPH: Counsel, watch your tone. Ask
19 your questions, and he'll answer them.

20 Q. What happened when you left?

21 A. When I left, I didn't have shoelaces. I asked for
22 my shoelaces. I was putting them on at the top of the
23 stairs, and they were coming over shoving me, they were like
24 shoving me down the stairs. "You didn't have to put those
25 fucking shoelaces on. Get out of my fucking stationhouse."

A. MANGANIELLO

1 Q. Who did that?

2 A. Detective Agostini.

3 Q. Did he push you down the stairs?

4 A. Pushed me, not down the stairs, he pushed me.

5 Q. Did you go to a doctor after you got shoved?

6 A. Huh?

7 Q. Did you ever go a doctor that morning after you

8 claimed to have been shoved?

9 MR. JOSEPH: For in relation to being shoved?

10 MS. FROMMER: Yes.

11 MR. JOSEPH: You can answer.

12 A. No, I did not.

13 Q. What happened then?

14 A. What happened then, after I was shoved out of the
15 precinct, I called -- I placed a call, and I called a cab.

16 Q. From what phone?

17 A. A phone on the street. I couldn't use the phone.
18 They wouldn't allow me to use the phone in the stationhouse.

19 Q. Was your cell phone taken by the police?

20 A. Yes.

21 Q. Did you ever get it back?

22 A. Never.

23 Q. Did ask for it?

24 A. Yes, I did. To this day, I still have documents
25 and items that I've never received.

A. MANGANIELLO

1 A. Yes.

2 Q. When you were in jail, were you always a Rikers
3 Island, or were you ever someplace else?

4 A. I was transferred out of Rikers.

5 Q. To where?

6 A. I think it was Queens West. Is that the name of
7 it? I'm not sure.

8 Q. Is it Queens House?

9 A. Maybe Queens House or Queens West.

10 Q. For how long were you incarcerated?

11 A. Ten days.

12 Q. Then was bail set?

13 A. Yes, finally bail was set.

14 Q. How much was bail?

15 A. \$100,000.

16 Q. Did I post bail?

17 A. Yes.

18 Q. Then you were released?

19 A. Yes.

20 Q. Were you released sometime -- was it April 30th or
21 May 1st?

22 A. May 1st.

23 Q. Were you ever re-incarcerated?

24 A. No.

25 Q. During the time that you were incarcerated, did you

A. MANGANIELLO

1 Q. To be a security officer, an SPO, do you have to
2 have a license?

3 MR. JOSEPH: Security officer or SPO, which
4 one?

5 Q. Do you have to have a license to be a security
6 officer?

7 A. I think you need a license by the State.

8 Q. And I'm assuming that you were licensed when you
9 were a security officer?

10 A. Yes, I had a police certification, and I had police
11 certification, pistol permits and security special patrolman
12 certification all of which I lost because of this false
13 arrest.

14 Q. Did you ever apply to get your certification back?

15 A. If there was a time -- they said after a certain
16 amount of period of time it expires and you would have to go
17 through the whole process over again. And at my age, I'm too
18 old. I'm too old to go through all that again.

19 Q. When you say you're "too old," is there an age
20 limit?

21 A. I believe the cut off age is 29 years.

22 Q. Did you apply?

23 A. You have to go to police academy again. I'm 45
24 now. There's no way I can get back to the police academy?

25 Q. Did you have to police academy to get your security

A. MANGANIELLO

1 Q. Did people involved in throwing Mr. Acosta through
2 a plate glass window, were they a member of any criminal
3 organizations?

4 A. Yeah, I was told they were the member of the Bloods
5 gang.

6 MR. JOSEPH: That's all I have.

7 CONTINUED EXAMINATION

8 BY MS. FROMMER:

9 Q. How did you learn they were a member of the Bloods
10 gang? Who told you?

11 A. Other security officers told me this.

12 Q. Do you know how they found out?

13 A. I believe they were the once that went with the
14 police. The police did the arrest, but they also went with
15 them, with the police officers.

16

17 (Continued on next page to include jurat.)

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